

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DEFENDANT'S MOTION TO DISMISS AND FOR FEES AND EXPENSES

Pursuant to Federal Rule of Civil Procedure 37(d),¹ Defendant United Parcel Service, Inc. (“UPS”) files this Motion to Dismiss Plaintiff’s Amended Complaint because of Plaintiff’s failure to cooperate in discovery and to comply with the Federal Rules of Civil Procedure. Additionally, if the Court grants UPS’s motion, it is proper to award UPS its litigation expenses incurred as a result of Plaintiff’s failure to comply with the discovery rules.

In support of its motion and to demonstrate good cause for the relief requested, UPS submits the attached Memorandum of Law in Support of its Motion to Dismiss and for Fees and Expenses.

¹ UPS also asserts this motion under Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to comply with the Federal Rules of Civil Procedure.

Respectfully submitted this 7th day of July 2006.

s/ Jeremy D. Tucker
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CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2006, I electronically filed the foregoing **DEFENDANT'S MOTION TO DISMISS AND FOR FEES AND EXPENSES**, with attached exhibits, with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the following attorneys of record: none.

I further certify that I have mailed by United States Postal Service the aforesaid document to the following non-CM/ECF participants:

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Plaintiff *pro se*

s/ Jeremy Tucker
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